

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FILED
DISTRICT COURT
MAY 1 1997

B 20 P

JEROME JULIUS BROWN

v.

Civil No. L-97-1703

E. KING SMITH, U.S. Postal Inspector, et al.

ORDER

Pending is Plaintiff Jerome Julius Brown's ("Brown") motion to proceed on appeal *in forma pauperis*. For the following reasons, the Court hereby CERTIFIES that Brown's appeal is not taken in good faith and DENIES his motion.

I. Background

Brown is no stranger to this Court, having filed a number of frivolous cases. Approximately ten years ago, in May 1997, Brown filed the instant case against a member of the United States Postal Service and the Attorney General of Maryland. The Court allowed Brown to proceed *in forma pauperis*, but dismissed Brown's complaint as frivolous, without requiring service upon the defendants. The Court noted that it was almost impossible to ascertain what claim, if any, Brown was asserting. Moreover, although it appeared that Brown was dissatisfied with the Postal Service's response to a request for investigation of money missing from the mail, it did not appear that the Maryland Attorney General would have any liability for the alleged failure to investigate. In addition, the Court stated that, even assuming that the Court had subject matter jurisdiction, there was no showing that Brown had exhausted his administrative remedies. (Docket No. 2.

¹ Brown has a history of mental illness. Based on his recent filings, it appears that he was arrested by state authorities in October of 2006 on counts of perjury and false entries on an application for a permit to wear, carry, and transport a handgun. He is currently undergoing a competency review at the Springfield Hospital Center in Sykesville, Maryland.

In March 2004, approximately 7 years after the Court dismissed his Complaint, Brown filed an appeal with the Fourth Circuit Court of Appeals. He wrote a check to cover the appeal fee. The check was drawn on a Bank of America account, which Clerk's Office staff discovered had been closed for months.² Accordingly, the Court directed the Clerk to return the check to Brown and instructed Brown that if he wished to pursue his appeal, he must pay the appeal fee in cash or by money order or he may seek leave to appeal *in forma pauperis*. (Docket No. 5.) Brown did not request leave to appeal *in forma pauperis*, and it does not appear from the docket that he ever paid the appeal fee. In an August 19, 2004 Order, the Fourth Circuit dismissed Brown's appeal as untimely, having been filed approximately 7 years after his case had been dismissed. (Docket No. 6.)

More than two years later, in November 2006, Brown filed another notice of appeal. In January 2007, he filed the instant motion to appeal *in forma pauperis*.

II. Analysis

Because Brown was permitted to proceed *in forma pauperis* in the district court, he may proceed on appeal *in forma pauperis* unless "the district court - before or after the notice of appeal is filed - certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed *in forma pauperis* and states in writing its reasons for the certification or finding." Fed. R. App. P. 24(a)(3)(A). "Good faith" is judged objectively, and an appeal is taken in "good faith" when it seeks review of an issue that is not frivolous. Coppedge v. United States, 369 U.S. 438, 445 (1962).

² Brown filed six notices of appeal at once, and wrote checks totaling \$1,530.00 to cover the fees. Each check was drawn on a Bank of America account in the name of Lawanda's Bonding Service. In an attempt to verify whether the checks were legitimate, Clerk's Office staff called the two numbers printed on the checks for Lawanda's Bonding Service. One was no longer in service, and the other was for an answering service. The service denied any knowledge of Lawanda's Bonding Service. (Docket No. 5.)

This Court previously dismissed Brown's case as frivolous without requiring service on the defendants. Accordingly, Brown's appeal seeks review of frivolous issues, and is not, therefore, taken in "good faith." See Smith v. Dell, Inc., 2007 WL 221530, at *3 (W.D. Tenn. Jan. 24, 2007) ("It would be inconsistent for a district court to determine that a complaint does not warrant service on the defendants, yet has sufficient merit to support an appeal *in forma pauperis*.").

Moreover, the Fourth Circuit denied Brown's earlier appeal as having been filed untimely. There is no reason to expect that another appeal filed two years later will have a different outcome.

III. Conclusion

For these reasons, the Court CERTIFIES that Brown's appeal is not taken in good faith. The Court DENIES Brown's motion

It is so ORDERED this 19th day of February, 2007.


Benson Everett Legg
Chief Judge